

Notice of Allowability

Application No.

10/501,115

Examiner

Joseph Kosack

Applicant(s)

STRAUB, ALEXANDER

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 01/26/2005.
2. ☒ The allowed claim(s) is/are 17,21,23,25,27,29,31,33,35,37,38,40 and 42.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 7/12/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Claims 17-46 are pending in the instant application.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 17, 20-21, 23, 25, 27, 29, 31, and 33-42, drawn to a process of making compounds of Formula I, classified in class 548, subclass 182.

Group II, claim(s) 18, 22, 24, 26, 43, and 45, drawn to compounds of Formula IV and a process of making such compounds, classified in class 558, subclass 10.

Group III, claim(s) 19, 28, 30, 32, 44, and 46, drawn to compounds of Formula V and a process of making such compounds, classified in class 558, subclass 2.

The inventions listed as Groups I, II, and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: each group has a different special technical feature. The special technical feature of Group I is the production of a thiazole. The special technical feature of Group II is the production of a thiocyanate. The special technical feature of Group III is the production of a carbonimidodithioate. Therefore, the special technical features of the three inventions are different and are lacking unity of invention.

During a telephone conversation with Richard E. L. Henderson on January 17, 2006 a provisional election was made without traverse to prosecute the invention of Group I, claims 17, 20-21, 23, 25, 27, 29, 31, and 33-42. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-19, 22, 24, 26, 28, 30, 32, and 43-46 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Priority

The claim to priority of PCT/EP03/00028, filed on January 3, 2003, which claims priority to DE 102012385, filed on January 15, 2002 is acknowledged in the instant application.

Information Disclosure Statement

The Information Disclosure Statement filed on July 12, 2004 has been considered fully by the examiner.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Richard E. L. Henderson on January 27, 2006. The application has been amended as follows:

Delete claims 18-20, 22, 24, 26, 28, 30, 32, 34, 36, 39, 41, and 43-46.

In claim 37, line 1, delete "34" and insert ---33---.

Reasons for Allowance

The present invention is directed to a process for preparing 2-(3,4,4-trifluoro-3-butenyl-thio)thiazole and 2-(4,4-difluoro-3-butenyl-thio)thiazole, wherein an alkyl chloride is converted to an alkyl mercaptothiazole by first converting the alkyl chloride to an alkyl thiocyanate, converting the resulting alkyl thiocyanate to an alkyl dithioimine, and finally cyclization of the alkyl dithioimine to an alkyl mercaptothiazole group. The closest prior art of record is USPN 6,734,198 (Watanabe et al.), which prepares the compounds by directly reacting the alkyl chloride with 2-mercaptothiazole, and does not disclose the limitation of the intermediates of the instant invention. Therefore, Claims 17, 21, 23, 25, 27, 29, 31, 33, 35, 37-38, 40, and 42 are allowed. The restriction requirement made on January 17, 2006 is hereby withdrawn.

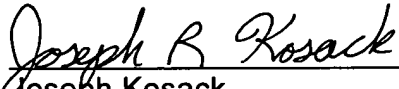
Telephone Inquiry

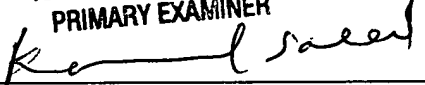
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Kosack whose telephone number is (571)-272-5575. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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